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REMARKS

Responsive to the Office Action mailed November 7, 2005, Applicants provide the following. The claims have been amended without adding new matter. Claim 4 has been cancelled and claims 1, 5, 6, 10 and 11 have been amended. Claims 18-19 have been added without adding new matter. Eighteen claims remain pending in the application: Claims 1-3 and 5-19. Reconsideration of claims 1-3 and 5-17 in view of the amendments above and remarks below and consideration of new claims 18-19 is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

Claim Objections

1. Claims 1-7 stand objected to over informalities. Claim 1 has been amended to correct a typographical error adding an --a-- between the words "in" and "vehicle". Similarly, claim 5 was amended to correct the typographical error replacing "side" with --slide--. Applicants believe that the objects have been overcome and respectfully request the objections be withdrawn.

Claim Rejections - 35 U.S.C. §102

2a. Claims 1-10 and 12-14 stand rejected under 35 U.S.C. §102(e), as being anticipated by U.S. Patent No. 6,742,840 (Bentley). Applicants respectfully traverse these rejections.

Claim 1 for example has been amended to include the limitations of claim 4 and recites in part:

the seat pan includes a first portion and a second portion, wherein the first portion is rotationally secured relative to the second portion, such that the first portion can be rotationally positioned in a plurality of positions relative to the second portion and wherein the first portion is rotationally secured such that in a first position the first portion of the seat pan is in alignment with the second portion and in a second position the first portion is out of alignment with the second portion such that a distal end of the

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first portion furthest from the second portion is below a proximal end of the first portion proximate the second portion.

Applicants respectfully submit that the Bentley patent does not teach or suggest at least pivotably securing a first portion of a seat pan such that “a distal end of the first portion furthest from the second portion is below a proximal end of the first portion proximate the second portion” as recited in amended claim 1 (emphasis added).

Instead, the Bentley patent only describes and shows a distal or forwardmost point 38 of a forward portion 42 being above the opposite end of the forward portion 42 proximate the rear portion 90. This is clearly evident in at least FIGS. 1A-1C, 2B, 3, 5, and 6A-6B. Further, in describing the forward portion 42, the Bentley patent states that the forward portion 42 can be generally flat in a lower position and in a raised position. Specifically, Bentley described positioning the forward portion 42 in “a lower position . . . proximate the base frame 22 and an upper position in which portion 42 is raised a distance D₃ above frame 22. FIG. 1C illustrates forward portion 42 in its [generally flat] lower position, while FIG. 1B depicts portion 42 in an upper position” (Bentley, col. 4, lines 27-31, emphasis added). It is clear from at least FIGS. 1A-1C and 5, that the forward portion 42 is always above the opposite end of the forward portion 42 proximate the rear portion 90. More specifically, FIG. 1A shows the seat 10 in an up-right position, FIG. 1B shows the seat in a reclined position and FIG. 1C shows the seat in a reclined position with the forward portion 42 in a lowered position, and in all three positions shown in FIGS. 1A-1C the forwardmost point 38 is clearly above the back part of the portion 42. Therefore, the Bentley patent fails to teach or suggest at least rotationally securing the first portion such that “a distal end of the first portion furthest from the second portion is below a proximal end of the first portion proximate the second portion” as recited in amended claim 1, and thus amended claim 1 is not anticipated by the Bentley patent.

Still further, the Bentley patent fails to teach or suggest pivotably securing the front portion of the seat pant such that in “a second position the first portion is out of alignment with the second portion” as recited in claim 1 (emphasis added). Instead, the Bentley patent only describes the front portion 42 always being in alignment with the rear portion 90. This is demonstrated in Bentley at least in FIGS. 1A-1C, 2A-2C, 3, 4, 5 and 6A-6B. The forwardmost

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point 38 of the forward portion 42 can be elevated but it is always in alignment with the rear portion 90. Therefore, the Bentley patent fails to teach each limitation of claim 1, and thus, claim 1 is not anticipated by the Bentley patent.

2b. Applicants further respectfully submit that independent claim 8 is also not anticipated by the Bentley patent. Specifically, claim 8 recites in part:

the seat pan includes a first portion and a second portion, wherein the first portion is configured to pivot relative to the second portion, such that the first portion of the seat pan pivots allowing a distal end of the first portion positioned away from the second portion to pivot so that the distal end can be moved out of a relative alignment with the second portion. (Emphasis added).

The Bentley patent fails to teach or suggest at least that a first portion of a seat pan can be moved out of relative alignment with a second portion. Instead, the Bentley patent only describes a forward portion 42 that is always generally aligned with rear portion 90. This is clearly evident as seen in at least FIGS. 1A-1C, 2A-2C, 3, 4, 5 and 6A-B. The forwardmost point 38 of the forward portion 42 can be elevated but it is always in alignment with the rear portion 90. Claim 8 instead recites at least that first portion of the seat pan can be pivoted so that “the distal end can be moved out of relative alignment with the second portion” of the seat pan (emphasis added). Therefore, claim 8 is not anticipated by the Bentley patent.

2c. Claims 2-3 and 5-7 depend from claim 1, and claims 9-14 depend from claim 8. Therefore, dependent claims 2-3, 5-7 and 9-14 are also not anticipated by the Bentley patent due at least to their dependency on independent claims 1 and 8.

Further with regard to at least claim 7, the Bentley patent fails to teach or suggest all of the claim limitations as recited in claim 7. Specifically, claim 7 recites in part “pivot arm secured with the base proximate a first end of the pivot arm ... wherein the pivot arm pivots about the first end moving the front portion of the seat pan as the seat pan is moved” (emphasis added). The office action suggests that FIG. 6B shows a “pivot arm (unlabeled) secured with a base (22) by way of hydrolock (98)” (office action, pg. 4). Applicants respectfully submit, however, that there is no indication that the “unlabeled part” is a pivot arm, and further, the

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“unlabeled arm” does not “pivot about the first end” as recited in claim 7. Therefore, claim 7 is also not anticipated by the Bentley patent.

Amended claim 10 is also not anticipated by the Bentley patent. Specifically, claim 10 recites in part “the back is pivotably secured at a first pivot point with the base wherein ... an upper portion of the back distal from the seat pan does not move in a second direction generally opposite the first direction beyond a plane defined by the back in a non-reclined position.” The Bentley patent specifically teaches away from such a configuration where Bentley states referring to FIG. 1A “Phantom lines show backrest 14 in its nominally fully ‘reclined’ position [where] rearwardmost point 34 of backrest 14 changes a distance D₁ ...” (Bentley, col. 3, line 66 through col. 4, line 2, emphasis added) and further describes the movement of the backrest back with reference to FIGS. 2A-2B where “When fully reclined, backrest 14’ has extended rearward a linear distance D₄” that is even greater than the distance D₁ (Bentley, col. 4, lines 50-51, emphasis added). Therefore, it is clear that the Bentley patent does not teach each element as recited in at least claim 10 and instead specifically teaches away from the seat apparatus for sitting in a vehicle as recited in amended claim 10, and thus, claim 10 is not obvious in view of the Bentley patent.

Applicants further submit that claim 12 is further not anticipated by the Bentley patent. Specifically, claim 12 recites in part “wherein the distal end of the first portion ... pivots out of alignment with the second portion and towards a floor...” (emphasis added). The Bentley patent only shows and describes the forward portion 42 being in alignment with the rear portion 90, and further specifically teaches away from pivoting the forward portion out of alignment. Still further, the Bentley patent teaches away from pivoting a second portion out of alignment toward a floor as claimed. Instead, the Bentley patent only describes moving the seat pan from a first position to a raised position “raised a distance D₃” as depicted in at least FIGS. 1A-C, 2B, and 5. There is no suggestion in Bentley that a first portion of the seat pan be pivoted toward a floor and out of alignment with a second portion of the seat pan. Therefore, claim 12 is also not anticipated by the Bentley patent.

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Claim Rejections - 35 U.S.C. §103

3a. Claim 11 stands rejected under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,742,840 (Bentley) in view of U.S. Patent No. 6,352,309 (Berth). Applicants respectfully traverse this rejection as claim 11 is not obvious over Bentley in view of the Berth patent. Specifically, claim 11 recites in part:

wherein the back includes a back frame pivotably secured at a second pivot point with the base such that the back pivots at the second pivot point causing an upper portion of the back to move in a first direction when a force exceeding a predefined level is applied to the back in the first direction.

The office action indicates that the Bentley patent fails to teach “a backrest frame pivotally secured with to the base” and suggests that it would have been obvious to “add a pivotal connection between the back frame and the base” (office action, pg. 5). However, the Bentley patent specifically teaches away from combining an additional pivot point on the backrest of the seat of the Bentley patent in that Bentley explains that one of the novel features of the described seat is that the seat specifically avoids a pivot point between the backrest and the seat pan stating “the seat 10 may differ from both seats depicted in the Hadden, Jr. patent as bottom 18 is both multi-part and lacking any hinge at interface I where the rear portion 90 abuts the backrest 14” (Bentley, col. 4, line 67 through col. 5, line 2, emphasis added). Therefore, one skilled in the art would not modify the Bentley seat to include a pivot point of the backrest at the seat pan as this goes directly against the specific teaching of the Bentley patent. Thus, claim 11 is not obvious in view of the Bentley and Berth.

3b. Claims 15 and 17 stand rejected under 35 U.S.C. §103(a), as being unpatentable over the Bentley patent. Applicants respectfully traverse these rejections. The Bentley patent fails to teach each limitation as recited in at least claim 15. Specifically, claim 15 recites in part “securing a back frame with the base; and pivotably securing a back rest with the back frame such that a lower portion of the back rest pivots as the second portion of the seat pan is moved along the axis” (emphasis added). The Bentley patent fails to teach at least the securing of a back frame with a base, or showing pivotably securing a back rest with the back frame.

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Instead, the Bentley patent shows a backrest 14 rigidly secured with a frame along numerous points of the frame (see FIG. 4).

The office action suggests that the Bentley patent describes a back frame, indicating it as "unlabeled". Applicants respectfully traverse this assertion. The Bentley patent only shows a base 22, and fails to show a back frame other than the frame secured along numerous points with the back rest 14 as shown in FIG. 4. The office action continues to suggest that Bentley shows "pivotably securing a backrest (14) with the back frame by way of second portion (90) and rollers (122) and (118). However, second portion (90) is part of the seat pan where the Bentley patent describes "bottom 18 comprises distinct forward portion 42 and rear portion 90" (Bentley, col. 4, lines 64-64, emphasis added). Further, the office action identified the rear portion 90 as part of the seat pan in the rejection of claims 1-10 and 12-14 ("a seat pan (90)(42) movably secured with the base" (office action, pg. 3)). Therefore, the Bentley patent at best only shows the seat pan being secured with the base, and fails to teach or suggest "securing a back frame with the base" as recited in claim 15. Still further, rollers 122 and 118 are cooperated with the base 22, and thus, Bentley does not teach or suggest the back rest being pivotably secured with the back frame. Therefore, the Bentley patent fails to teach each element as recited in claim 15, and claim 15 is not obvious in view of the Bentley patent.

Claim 17 depend from claim 15. Therefore, claim 17 is also not obvious in view of the Bentley patent due at least to its dependency on claim 15.

3c. Claim 16 stands rejected under 35 U.S.C. §103(a), as being unpatentable over the Bentley patent in view the Beroth patent. However, Applicants demonstrated above that one skilled in the art would not combine the Beroth patent with the Bentley patent to pivotably secure a back rest with a back frame. Further, the Beroth patent also fails to teach or suggest at least "pivotably securing a back rest with the back frame" as recited in claim 15. The Beroth patent specifically fixes the back rest 20 to the back frame (e.g., see FIG. 1), and fails to teach or suggest pivotably securing the back rest to the back frame as recited. Therefore, claim 16 is not obvious in view of the combination of Bentley and Beroth.

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New Claims

4. Newly submitted claims 18 and 19 are believed to be allowable because they are directed to that which is not shown or suggested in the prior art.

Support for new claim 18 can be found at least in originally filed claims 11 and 15-17, as well as on at least pages 9 line 14 through page 10 line 29 referring at least to FIG. 5. Support for new claim 19 can be found at least at page 5 line 30 through page 6 line 1, and page 8 line 9 through page 10 line 13.

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

Dated: 2/7/06



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